

Assembly Bill No. 1076

CHAPTER 326

An act to amend Section 15050 of the Financial Code, relating to credit unions.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1076, Achadjian. Credit unions.

Existing law, the California Credit Union Law, provides for the regulation and certification of credit unions by the Commissioner of Financial Institutions. Existing law regulates loans to officials of a credit union and defines an official as a director, officer, or member of the supervisory committee or the credit committee of a credit union. Existing law prohibits a credit union from entering into any obligation with an official of the credit union, directly or indirectly, not fully secured by shares or certificates for funds unless specified requirements are satisfied. Existing law makes it a crime for specified employees of a credit union to knowingly permit, or participate in, the creation of an obligation that is not in conformity with the requirements of the Credit Union Law, except as specified.

This bill would revise these requirements in order for a credit union to enter into an obligation, as defined, with an official of the credit union, directly or indirectly. The bill would, among other things, in order for a credit union to be authorized to enter into these obligations with an official, prohibit the aggregate amount of obligations outstanding to all officials, except obligations fully secured by shares, from exceeding 20% of the aggregate dollar amount of all savings capital of the credit union and would require that any obligation which would cause the aggregate amount of obligations outstanding to the official to exceed \$50,000, excluding any portion fully secured by shares, be approved by the credit committee or credit manager, and by the board of directors of the credit union.

Because knowingly creating or participating in the creation of an obligation in violation of these provisions by an employee of a credit union would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 15050 of the Financial Code is amended to read: 15050. (a) For purposes of this section, the following definitions shall apply:

(1) "Credit manager" means any individual, regardless of title, designated pursuant to Section 14600 to fulfill the duties of a credit manager.

(2) "Obligation" means any loan or approved line of credit, including both used and unused portions, on which the official is a borrower, coborrower, cosigner, endorser, or guarantor.

(3) "Official" means a director, officer, or member of the supervisory committee, or member of the credit committee of a credit union.

(b) No credit union shall enter into any obligation with any official, directly or indirectly, unless (1) the obligation complies with all lawful requirements of this division with respect to obligations permitted for other members of the credit union, (2) the obligation is not on terms more favorable than those extended to other members of the credit union, and (3) the obligation is entered into in accordance with a written policy adopted by the directors establishing that all officials shall have an equal opportunity to enter into obligations with the credit union.

(c) No credit union shall enter into any obligation with any official, directly or indirectly, unless all of the following requirements are satisfied:

(1) Upon the making of the obligation, the aggregate amount of obligations outstanding to all officials, except obligations fully secured by shares, shall not exceed 20 percent of the aggregate dollar amount of all savings capital of the credit union.

(2) The obligation, except any portion of an obligation fully secured by shares, shall not exceed the maximum obligation to the credit union set forth in subdivisions (b) and (c) of Section 15100.

(3) Any obligation that would cause the aggregate amount of obligations outstanding to the official to exceed fifty thousand dollars (\$50,000), excluding any portion fully secured by shares, shall be approved by the credit committee or the credit manager, and by the board of directors. An official shall not take part in any credit decision, directly or indirectly, for his or her benefit and shall not be present during any portion of any committee or board meeting where his or her credit application is under consideration.

(4) The names of members of the credit committee, the credit manager, and board of directors who voted to authorize or ratify the obligation shall be entered in their respective minutes.

(d) No credit union shall permit an official to become surety for any obligation created by the credit union for anyone other than a member of his or her immediate family.

(e) No credit union shall enter into any obligation with any credit manager or any officer employed by the credit union unless the obligation is in compliance with all requirements of this division with respect to obligations permitted for other nonemployee members, and not on terms more favorable

than those extended to other employees, and approved by the board of directors.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.